

# Senate Amendment 5274

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1 1 Amend Senate File 2410 as follows:  
1 2 #1. Page 19, by inserting after line 27 the  
1 3 following:  
1 4 <DIVISION \_\_\_\_  
1 5 HEALTH CARE WORKERS == DISCLOSURE OF INFORMATION  
1 6 Sec. \_\_\_\_ NEW SECTION. 147.105 PATIENT  
1 7 PROTECTION == HEALTH CARE WORKERS == REPORT OF ADVERSE  
1 8 EVENTS.  
1 9 1. DEFINITIONS. As used in this section, unless  
1 10 the context otherwise requires:  
1 11 a. "Health care worker" means any individual  
1 12 employed by or under contract with a hospital, health  
1 13 care provider, or health care agency to provide health  
1 14 care services.  
1 15 b. "Professional standards of care" means  
1 16 authoritative statements that describe a level of care  
1 17 or performance common to the profession by which the  
1 18 quality of professional practice can be judged and  
1 19 which reflect the values and priorities of the  
1 20 profession.  
1 21 2. A health care worker, who reasonably believes a  
1 22 particular practice the health care worker has  
1 23 observed occurring at the health care worker's place  
1 24 of employment, based on the health care worker's  
1 25 professional standards of care or professional code of  
1 26 ethics, is a violation of health and safety laws or a  
1 27 breach of public safety that may lead to harm to  
1 28 patients, consumers, or citizens, may report the  
1 29 information relating to the violation or breach within  
1 30 fourteen days of its occurrence to the health care  
1 31 worker's supervisor or employer, in order that  
1 32 corrective action can be taken. The health care  
1 33 worker shall be protected against reprisals or  
1 34 retaliatory or punitive action by the individual or  
1 35 institution receiving such a report.  
1 36 3. If after a reasonable period of time for  
1 37 correction of the violation or breach reported  
1 38 pursuant to subsection 2, the health care worker  
1 39 continues to see the particular practice occurring in  
1 40 the workplace giving rise to the report, the health  
1 41 care worker may disclose information to the licensing  
1 42 board, the department, the division of insurance in  
1 43 the department of commerce, a member or employee of  
1 44 the general assembly, the attorney general, a  
1 45 state-mandated health information collection agency,  
1 46 any other public official or law enforcement agency,  
1 47 federal government agency or program, the governing  
1 48 board of the health care worker's employer or  
1 49 institution, the health care worker's professional  
1 50 association, or the media, and shall be protected  
2 1 against reprisals or retaliatory or punitive actions  
2 2 by the individual or institution if disclosure of the  
2 3 information is not otherwise prohibited by statute and  
2 4 if the information meets any of the following  
2 5 requirements:  
2 6 a. Constitutes state-mandated health data required  
2 7 to be submitted to state agencies.  
2 8 b. Informs state agencies or entities of  
2 9 violations of state health, safety, occupational  
2 10 health, licensure, or insurance laws.  
2 11 c. Is reasonably believed by the health care  
2 12 worker to be a violation of health and safety laws or  
2 13 a breach of public safety that may lead to harm to  
2 14 patients, consumers, or citizens, based upon the  
2 15 health care worker's professional standards of care or  
2 16 professional code of ethics.  
2 17 A health care worker making a disclosure which  
2 18 violates any provision of the federal Health Insurance  
2 19 Portability and Accountability Act, Pub. L. No.  
2 20 104-191, shall not be entitled to protection pursuant  
2 21 to this section nor entitled to civil remedies which  
2 22 might otherwise be available pursuant to subsection 7.  
2 23 4. A health care worker disclosing in good faith  
2 24 the information described in subsections 2 and 3 shall

2 25 be presumed to have established a prima facie case  
2 26 showing a violation of subsection 2 or 3 by the health  
2 27 care worker's employer if the individual or  
2 28 institution employing the health care worker knows or  
2 29 has reason to know of the disclosure, and if  
2 30 subsequent to and as a result of the disclosure, one  
2 31 or more of the following actions were initiated by the  
2 32 employer:  
2 33     a. Discharge of the health care worker from  
2 34 employment.  
2 35     b. Failure by the employer to take action  
2 36 regarding a health care worker's appointment to,  
2 37 promotion or proposed promotion to, or receipt of any  
2 38 advantage or benefit in the health care worker's  
2 39 position of employment.  
2 40     c. Any adverse change to the health care worker's  
2 41 terms or conditions of employment or any  
2 42 administrative, civil, or criminal action or other  
2 43 effort that diminished the professional competence,  
2 44 reputation, stature, or marketability of the health  
2 45 care worker.  
2 46     An employer shall have the burden of proof  
2 47 regarding any attempt to show that actions taken  
2 48 pursuant to this subsection were for a legitimate  
2 49 business purpose.  
2 50     5. If an individual or institution employing a  
3 1 health care worker is determined to have violated  
3 2 state health, safety, or occupational health and  
3 3 health licensure laws or regulations, or professional  
3 4 standards of care or a professional code of ethics,  
3 5 after a disclosure pursuant to subsection 2 or 3  
3 6 results in an action as described in subsection 4,  
3 7 such a determination shall create a presumption of  
3 8 retaliation or reprisal against the health care worker  
3 9 in violation of this section. Disclosure of a  
3 10 reasonable belief that violations of health and safety  
3 11 laws or breaches of public safety have occurred that  
3 12 have caused or have a potential to cause harm to  
3 13 patients, consumers, and citizens shall immediately  
3 14 trigger the protection afforded by this section.  
3 15     6. A person who violates this section commits a  
3 16 simple misdemeanor and is subject to a civil action as  
3 17 follows:  
3 18     a. A person who violates this section is liable to  
3 19 an aggrieved health care worker for affirmative  
3 20 relief, including reinstatement with or without back  
3 21 pay, or any other equitable relief the court deems  
3 22 appropriate, including attorney fees and costs,  
3 23 punitive or exemplary damages, and public notice of  
3 24 the retaliation or reprisal undertaken against the  
3 25 health care worker through publication in an official  
3 26 newspaper in the city or county.  
3 27     b. When a person commits, is committing, or  
3 28 proposes to commit an act in violation of this  
3 29 section, an injunction may be granted through an  
3 30 action in district court to prohibit the person from  
3 31 continuing such acts. The action for injunctive  
3 32 relief may be brought by an aggrieved health care  
3 33 worker or by the county attorney.  
3 34     7. In addition to any other penalties applicable  
3 35 to a person who violates this section, an individual,  
3 36 institution, or organization employing a person who  
3 37 violates this section shall be subject to a civil  
3 38 penalty in the amount of one thousand dollars per  
3 39 violation.>  
3 40 #2. Title page, line 6, by inserting before the  
3 41 words <and the> the following: <providing a  
3 42 prohibition against reprisals related to health care  
3 43 workers' disclosures of information,>.  
3 44 #3. By renumbering as necessary.  
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3 49 SF 2410.702 81  
3 50 ec/gg/5949